

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

NOE ORTEGA PEREZ,	)	
	)	
Petitioner,	)	2:10-cv-01824-KJD-PAL
	)	
vs.	)	
	)	ORDER DISMISSING PETITION
WARDEN DWIGHT NEVEN, et al.,	)	
	)	
	)	
Respondents.	)	
_____	/	

The petitioner has presented the Court with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and has paid the filing fee.

It appears to the Court from the face of the petition that it is fatally flawed. First, the petitioner was filed more than nine years after his judgment of conviction became final. Petition, Item 2; *see* 28 U.S.C. § 2244(d). Second, it appears that the single claim raised in the petition has not been previously presented to the Nevada Supreme Court for review making the claim unexhausted. Petition, p. 4; *see* 28 U.S.C. § 2254(b)(1). Third, that the petition does not identify a federal claim for relief. Petition, p. 3; *see* 28 U.S.C. § 2254(a).

Petitioner is advised that there exists a one-year statute of limitations for presenting his

1 federal petition and that he must first present his grounds for relief to a state court before a federal court  
2 may review the merits of the issues he raises. To exhaust a claim, petitioner must have "fairly presented"  
3 that specific claim to the Supreme Court of Nevada. *See Picard v. Conner*, 404 U.S. 270,275-76  
4 (1971); *Schwartzmiller v. Gardner*, 752 F.2d 1341, 1344 (9th Cir. 1984). Accordingly the petition shall  
5 be dismissed without prejudice.

6 **IT IS THEREFORE ORDERED** that the petition is **DISMISSED without prejudice**.  
7 The Clerk shall enter judgment accordingly.

8 DATED: October 27, 2010



10 UNITED STATES DISTRICT JUDGE